

DEPARTMENT OF DEFENSE
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE

FORT GEORGE G. MEADE, MARYLAND 20755-6000

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KATHY GOLD
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NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

Case: 82370/Appeal: 4192
17 July 2017

Ms. Kathy Gold
11100-8 Sepulveda Boulevard, #512
Mission Hills, CA 91345

Dear Ms. Gold:

Thank you for your 22 October 2015 letter appealing the response from the National Security Agency (NSA or Agency) to your request under the Freedom of Information Act (FOIA). You had requested "is there a way to find out how many times the Secret Service (the individuals) accessed [your] email address, hpchck@gmail.com and when?"

I have reviewed your initial request, the Agency's 30 September 2015 response to you, and your letter of appeal. I have determined the Agency's response was correct. Therefore, I am denying your appeal for the reasons explained below.

The appropriate response in this case is to neither confirm, nor deny, the existence or nonexistence of any material pertaining to any NSA intelligence programs or activities. To do otherwise would result in the exposure of intelligence information, sources, methods or activities which could harm our national security and severely undermine the NSA mission. For example, if NSA denied having information in cases where none exists, but remained silent in cases where information did exist, it would identify activities that the NSA was and was not doing. Moreover, whether or not a particular activity or program exists, as well as any Agency involvement, may be classified or protected information and must remain so. Any acknowledgement may be deemed to be an improper disclosure of information. Your appeal is therefore denied because the FOIA exempts the release of classified¹ and/or protected² information.

You are hereby advised of your right pursuant to 5 U.S.C. §552(a)(4)(B) to seek judicial review of my decision in the United States District Court in the district in which you reside, in which you have your principal place of business, in which the Agency records are situated (U.S. District Court of Maryland), or in the District of Columbia.

¹ The first exemption under the FOIA indicates that the FOIA does not apply to matters that are authorized by Executive Order to be kept secret and are properly classified in the interest of national defense or foreign relations. The fact of the existence or non-existence of any records responsive to your request is an appropriately classified matter. Paragraph 3.6(a) of Executive Order 13526 ("Classified National Security Information") specifically authorizes this type of response, also known as a Glomar response, to such requests made under the FOIA.

² The third exemption under the FOIA authorizes the withholding of information specifically protected from disclosure by statute. The fact of the existence or non-existence of any records responsive to your request is currently exempted from disclosure by the following statutes: Title 18 U.S. Code 798; Title 50 U.S. Code 3024(i); and Section 6, Public Law 86-36 (50 U.S. Code 3605).

Finally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740
ogis@nara.gov / (877) 684-6448 / (202) 741-5770 / Fax (202) 741-5769

Sincerely,

A handwritten signature in cursive script, reading "David J. Sherman".

DAVID J. SHERMAN
Chief, Strategy, Plans, and Policy
Freedom of Information/Privacy Act Appeal Authority